



February 20, 2002

Ms. Sarajane Milligan
Senior Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2002-0810

Dear Ms. Milligan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 159645.

Harris County (the "county") received a request for copies of thirteen categories of documents and two videotapes pertaining to case # 2001-0672-W. You claim that the requested videotapes are excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted videotapes.

You claim that the videotapes are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 264.408 of the Family Code.¹ Section 264.408 provides in pertinent part:

(a) The files, reports, records, communications, and working papers used or developed in providing services under this chapter are confidential and not subject to public release under Chapter 552, Government Code, and may only be disclosed for purposes consistent with this chapter. Disclosure may be to:

¹ Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses information protected by other statutes.

(1) the department, department employees, law enforcement agencies, prosecuting attorneys, medical professionals, and other state agencies that provide services to children and families; and

(2) the attorney for the child who is the subject of the records and a court-appointed volunteer advocate appointed for the child under section 107.031.

Fam. Code § 264.408(a). Section 264.408 provides that certain information used or developed in providing services under chapter 264 of the Family Code, which concerns child welfare services, is confidential. Section 264.408 also explicitly provides for circumstances in which such confidential information may be disclosed. *See id.* You state that the county's Children's Assessment Center (the "CAC") qualifies under chapter 264 of the Family Code as a children's advocacy center and that the children who are the subject of this request were provided services by the CAC. You also state that, as a part of these services, the CAC conducted videotaped interviews of the children. Based on your arguments and our review of the videotapes, we conclude that the videotapes are confidential pursuant to section 264.408(a) of the Family Code. Furthermore, it does not appear that the provisions allowing for the disclosure of this information apply to this requestor. *See* Fam. Code § 264.408(a)(1), (2). Accordingly, the county must withhold the submitted videotapes from disclosure pursuant to section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental

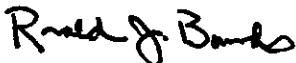
body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 159645

Enc. Submitted videotapes

cc: Ms. Barbara S. Zolbrod
5606 Holston Hills Court
Houston, Texas 77069
(w/o enclosures)